

MINUTES
TOWN OF GROTON
ZONING COMMISSION
APRIL 2, 2014 – 7:00 P.M.
TOWN HALL ANNEX – COMMUNITY ROOM 2

I. ROLL CALL

Regular members present: Sutherland, Marquardt, French, Sayer
Alternate members present: Bancroft, Middleton
Absent: Smith, Hudecek
Staff present: Glemboski, Jones, Quinn, Galetta, Carey

Chairperson Sutherland called the meeting to order at 7:01 p.m. and sat Bancroft for Hudecek.

II. PUBLIC HEARING

1. Special Permit #339, 15 Water Street, PIN 261918306108 (CAM), WDD Zone. Proposal is to change the approved use of the basement level from retail to a restaurant. Review is per Sections 6.3 and 8.3 of the Zoning Regulations. (Fedus Engineering, LLC, Applicant)

The Public Hearing was opened at 7:01 p.m. with Chairperson Sutherland reading the legal ad. Glemboski, Middleton and Bancroft recused themselves and left the meeting.

Gregg Fedus, Fedus Engineering, LLC presented to the Commission. He noted that representatives from the Mystic Art Center, Karen Barthelson and MaryAnne Stetts, were also present. He reviewed previous special permits that have been granted noting outside improvements to the parking area and ramp system to access the basement area. He reviewed the floor plan and the addition currently under construction for residential living on the upper floors. He discussed the sidewalk that connects to the Art Center parking lot.

The Planning Commission recently approved an expansion and reconfiguration of the Mystic Art Center parking lot, which added 35 spaces to the lot. Four of those spaces are accessed through the driveway to the Powerhouse Condominiums. These spaces will be dedicated to the residential units. This application is for a change of use of the basement level from retail to restaurant resulting in the need for an additional 4 parking spaces. This is satisfied by the 4 new spaces along the Powerhouse driveway. Signage is proposed to designate the residential spots.

Fedus noted that stone ledge has been removed from the basement of the Emporium building, which dropped the floor level approximately 2'. Larger rocks were removed from the outside property to create parking and will be utilized for some improvements to the Art Center parking area. The Art Center has approval to add 35 spaces. Fedus also noted that the sidewalk is now an unencumbered cut through to the Art Center, which should improve pedestrian traffic. This work was approved in late 2013.

Fedus reviewed the WDD design objectives. The Commission asked the applicant to focus on the design objectives, if any, that are different now that the change is from retail to restaurant.

The Commission had a number of questions relative to window location, the retail vs. restaurant aspect of the building, food preparation and delivery, entrance and exits for the basement area, hours of operation and lighting.

Fedus explained that the basement level will be a wine café with limited food that will be brought down from the first floor. The first floor level will be a butcher shop with some cooking facilities similar to a Mystic Market. There will be one entrance and exit to the basement level, which meets fire code. Fedus was unclear as to the specific hours of operation but assumed it would be similar to the restaurant next door. There are no plans for outdoor music and seating. He also stated that there is no change to the lighting.

Regarding the Coastal Management application, stormwater will flow to a rain garden and then overflow to pervious pavers on the ramp system to allow some run off to get dissipated. Sediment transport during construction has been kept under control. Fedus thinks it satisfies the Coastal objectives. He noted the rain garden will treat the first inch of rainfall which is the most damaging.

Staff noted that the mailings are in order and that the Planning Commission reviewed the application and they have no comment. She explained that the application is to change a retail space to a restaurant wine bar. Additionally, she noted that the Zoning Official has determined that the main floor is retail. Cooking will not take place in the basement level and food for the wine bar will be carried down in covered containers. Ledge Light Health District has reviewed the plan and determined it to be per public health code. Staff also reviewed the parking clarifying the difference between retail and restaurant parking requirements. In response to the Commission's concerns about food service in the building, staff provided examples of other types of retail establishments that also provide meals to customers.

Chairperson Sutherland asked for public comments for or against the application.

Martin Cramer, 17 Water Street, stated that his condominium windows face the location. He voiced his concerns about additional noise, traffic, trash handling, hours of operation, drainage, and how these issues will impact the neighboring area. He was also disappointed in the lack of information provided during the presentation.

Lee Vincent, 1 New London Road, stated that his house is directly across the street from the driveway to the Emporium. He also had concerns about the application. He asked the Commission to specify no outdoor seating in the approval. He was quite concerned about consistent outside noise having an impact on his health.

Fedus tried to address the concerns of the neighboring property owners. He noted the restaurant should not be open beyond midnight. He stated there is no room for outdoor seating and no plan to propose any, nor does the Art Center want this type of seating. No music will be amplified outside. He explained that the trash enclosure has been relocated to the main entrance of the Art Center so there is no longer a need to use the Powerhouse entrance.

The Commission was disconcerted by the lack of specific hours for the wine bar. Fedus stipulated that they will be until 11:00 p.m. during the week and until 12:00 p.m. on Friday and Saturday nights.

The Commission was also concerned about seating capacity. Staff noted that the Zoning Regulations only speak to seating area rather than the number of seats.

Martin Cramer, 17 Water Street, expressed concerns about lighting. He stated the existing lighting in the area is very dim and wanted to know how the restaurant will call attention to the fact that it's open for business.

Fedus noted that per a previous application there are three gooseneck lights that have been approved and will be focused down toward the ground. Staff also noted they are full cutoffs.

Lee Vincent, 1 New London Road, stated that matured trees were removed from the area and feels it could support a full shade tree rather than the shrubbery that is being proposed.

The public hearing closed at 7:52 p.m.

III. APPROVAL OF THE MINUTES OF March 5, 2014

MOTION: To approve the minutes of March 5, 2014

Motion made by French, seconded by Sayer, 3 in favor, 0 opposed, 1 abstention (French). Motion passed.

IV. CONSIDERATION OF PUBLIC HEARING

1. Special Permit #339, 15 Water Street (CAM) (Fedus Engineering, LLC, Applicant)

Staff noted that the hours of operation and outdoor seating can be discussed. Any outdoor seating must be approved by the Commission. The Commission discussed the window locations and the type of noise the use might generate.

Sayer noted her frustration with the lack of information about things not included in Commission's scope such as signage and determination of what is retail usage. She thought the presentation was weak and missing a lot of information. She was in favor of the proposed type of restaurant.

Marquardt agreed that the presentation was confusing; however, parking is what the Commission is looking at. There were some positive things in the presentation such as moving the dumpster and using best practices to handle the drainage.

French noted that she agrees the drainage plans are good ones and she also thinks the use is good.

The Commission noted that while they had concerns about the lack of specific hour of operation and questions that the applicant did not successfully answer they did not want to slow the project down.

Staff noted the wine café is considered bot a bar and a restaurant relative to seating and parking.

MOTION: To approve Special Permit #339, Mystic Emporium, 15 Water Street to change the use of the basement level from retail to a restaurant with 328

square feet of restaurant seating and 42 square feet of bar seating with the following modifications:

1. The restaurant shall be open no later than 10 p.m. Sunday through Thursday and Friday and Saturday 11 p.m.
2. Any outdoor seating requires a special permit from the Zoning Commission.
3. The special permit is valid for two years.

Findings and Reasons for Approval

The Commission finds that change of use of the basement level from retail to restaurant complies with Section 6.3 of the Zoning Regulations in that the restaurant will serve both Mystic residents and tourists; it will preserve and enhance the historic features of the existing building, and; it is in keeping with the goals of the Plan of Conservation and Development.

The Commission also finds that the change of use complies with Section 8.3 of the Zoning Regulations in that it will not have any detrimental effects on the public health, safety, and welfare, will not be in conflict with the normal pedestrian and vehicular traffic pattern of the neighborhood, does not conflict with the purposes of these regulations and will reasonably minimize the potential environmental impacts on adjacent water bodies, including Long Island Sound.

Motion made by Sutherland, seconded by Sayer, so voted unanimously.

MOTION: To approve the Coastal Site Plan for Special Permit #339, 15 Water Street, because it is consistent with all applicable coastal policies and includes all reasonable measures to mitigate adverse impacts on coastal resources.

Motion made by Marquardt, seconded by French, so voted unanimously.

V. PUBLIC COMMUNICATIONS – None

Jones left at 8:13 p.m.

Sutherland recused herself from the executive session and asked Commissioner Marquardt to take over as Chairperson. Sutherland left at 8:13 p.m.

Middleton and Bancroft returned for the executive session at 8:13 p.m.

VI. EXECUTIVE SESSION

1. For settlement discussion with regard to *Whittle v. Zoning Board of Appeals*, KNL- CV-08-4007938, *Turner v. Zoning Commission*, KNL-CV-12-6012872-S, and *Whittle v. Zoning Commission*, KNL-CV-12-6012917-S

MOTION: To enter executive session at 8:15 p.m. for settlement discussion with regard to *Whittle v. Zoning Board of Appeals*, KNL- CV-08-4007938, *Turner v. Zoning Commission*, KNL-CV-12-6012872-S, and *Whittle v. Zoning Commission*, KNL-CV-12-6012917-S

Motion made by French, seconded by Sayer, so voted unanimously.

Invited to be in attendance for the executive session were Commissioners Sayer, Marquardt, French, Middleton and Bancroft. Staff members invited to attend to offer testimony or opinion were Kevin Quinn and Town Attorney Michael Carey.

Acting Chairperson Marquardt ended the executive session at 8:29 p.m. and noted that there were no votes taken.

Sutherland and Glemboski returned at 8:30 p.m.

VII. OLD BUSINESS

1. Discussion of Revisions to Zoning Regulations; including Buildable Land Definition, Table of Permitted Uses, Animals in Residential Districts, and Special Permits

Buildable Land – Sutherland noted she did not have an update for the meeting.

Table of Permitted Uses – It was decided to discuss this item when Commissioner Hudecek is in attendance.

Animals in Residential Districts – The proposed regulations, Section 7.1-47 Keeping of Hens, was reviewed and discussed. Staff will continue to work on the regulation language, based on the Commission's discussion, for the next meeting.

2. POCD Update Report

Sutherland attended the meeting on Thursday, March 20. She thought it was very interesting and noted the economic draft report is available on the Town website. Although the economic report still needs corrections, she feels it is an optimistic report. She also noted that a consultant addressed the March 25th Town Council Committee of the Whole regarding how to improve the economic climate of the Town.

3. Land Use Regulation Update Project

This item was not discussed.

VIII. NEW BUSINESS

1. Report of Commission

French stated that she received a call from Ted Frase, of 598 New London Road, who is very much in favor of chickens. Chairperson Sutherland noted that she also received a call from Frase on that subject.

2. Receipt of New Applications

- a. Zoning Map Amendment #ZCH 14-01, 707-817 River road and parcels east of River Road designated as 0 River Road, Proposal is to change the

zoning district of 17 lots on River Road from RU-80 Zone to RU-40 Zone, (Richard Dixon, Applicant).

Staff noted the public hearing is scheduled for May 7th.

- b. Special Permit #341, 15 Water Street (CAM), Change approved use of first floor from retail to restaurant and change use of basement level from restaurant (pending approval) to retail, (Fedus Engineering, LLC, Applicant)

Staff noted the public hearing is scheduled for May 7th.

IX. REPORT OF CHAIRPERSON

1. Report on December 10, 2013 meeting with Town Council

Sutherland will discuss this item when Commissioner Hudecek is in attendance.

2. Sutherland reported that she has spoken to a Town Council member who is in favor of all Commissions and stakeholders becoming involved in the Planning Director hiring process. The councilor was going to talk to the Town Manager and Sutherland will have an update at the next meeting.

X. REPORT OF STAFF

Staff noted that Deb Jones has been named Acting Director of Planning. Additionally, the Mystic Streetscape II Project gets underway this week.

Gregg Fedus requested permission to address the Commission about the new special permit application for 15 Water Street. He explained that the special permit application heard by the Commission this evening was very important to the Art Center in terms of planning and funding. In fact, it was critical to get approval in order to keep the funding on track. However, the potential tenant has proposed a last minute change which has necessitated the new application. Fedus expressed his apologies to the Commission.

XI. ADJOURNMENT

Motion to adjourn at 9:03 p.m. made by Bancroft, seconded by Sayer, so voted unanimously.

Susan Marquardt, Secretary
Zoning Commission

Prepared by Lynda Galetta
Office Assistant II